REMARKS/ARGUMENTS

In view of the art cited in the Office Action mailed December 4, 2006, claims 1, 15 and 24 have been amended to include the limitations of respective dependent claims 4, 18 and 26, which have been canceled. Claims 7, 11, 21 and 23 have been amended to correct typographical errors. Reconsideration of this Application and entry of this Amendment are respectfully requested.

35 U.S.C. §102 Rejections

Claims 1-34 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,952,747 to Kimmel *et al.*, hereinafter "Kimmel." Applicants aver that this rejection under 35 U.S.C. § 102(b) is improper because Kimmel fails to describe, either expressly or inherently, each and every element as set forth in the claims. A claim is anticipated only if the elements are arranged as required by the claim. See MPEP 2131 and *C.R. Bard, Inc. v. M3 Sys., Inc.*, 157 F.3d 1340.

Claim 1, as amended, requires in part

> a first tubular member comprising a hypotube having a proximal end and a distal end and having a fluid containing lumen therethrough
> and
> a master actuating member configured for longitudinal movement within said hypotube proximate said proximal end.

The rejection asserts that Kimmel's first plunger 50 corresponds to the required master actuating member and is configured for longitudinal movement within hypotube member 22, 48. See Detailed Action, paragraph 2. Applicants contend that the rejection mischaracterizes the teachings of the reference. Kimmel's first plunger 50 is disposed within cylindrical barrel 49 of syringe 48. Syringe 48 is "of conventional construction" and is fluidly coupled to catheter 22 through connector 46. Kimmel does not teach, either expressly or inherently, that plunger 50 is configured for movement within catheter 22. Only liquid, not plunger 50, is forced from syringe 48 into catheter 22. See Kimmel at column 6, lines 53-63, column 7, lines 19-22 and FIG. 4 below. Furthermore, Kimmel's syringe 48 cannot reasonably be construed as a hypotube under

any definitions or common usage of the two terms. Therefore, claim 1 is patentable because Kimmel fails to teach all the elements of claim 1, arranged as required by the claim.

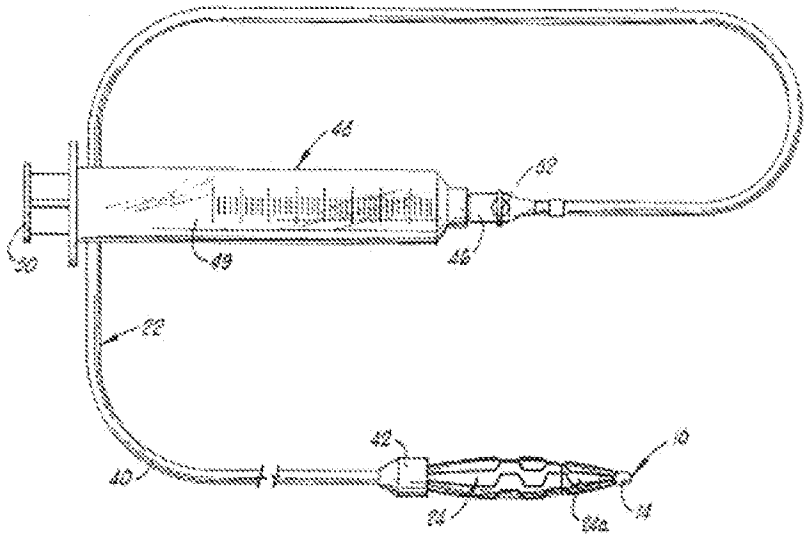

FIG. 4

Claims 2, 3 and 5-14 depend directly or indirectly from claim 1 and are patentable for the same reasons explained above regarding claim 1. Furthermore, claim 2 requires in part that a "slave actuating member is configured for movement within said lumen." The rejection has failed to point out any part of Kimmel that is considered to teach the specific limitations of claim 2, as required under 37 C.F.R. § 1.104 (c) 2, which states "When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable."

Claim 6 requires in part "a second plunger configured for telescopic movement within said first tubular member." The rejection has failed to point out any part of Kimmel that is considered to teach the specific limitations of claim 6, as required under 37 C.F.R. § 1.104 (c) 2.

Claim 7, as amended, requires in part that a "slave actuating member comprises a second tubular member configured for telescopic movement with respect to said first tubular member." The rejection has failed to point out any part of Kimmel that is considered to teach the specific limitations of claim 7, as required under 37 C.F.R. § 1.104 (c) 2.

Claim 9 requires in part that "said medical device comprises an expandable occluder." The rejection has failed to point out any part of Kimmel that is considered to teach the specific limitations of claim 9, as required under 37 C.F.R. § 1.104 (c) 2.

Claim 10 requires in part "a sealing member fixedly attached to said second plunger for providing a fluid seal between said first tubular member and said second plunger." The rejection has failed to point out any part of Kimmel that is considered to teach the specific limitations of claim 10, as required under 37 C.F.R. § 1.104 (c) 2.

Claim 11, as amended, requires in part "a sealing member fixedly attached to said second tubular member for providing a fluid seal between said first tubular member and said second tubular member." The rejection has failed to point out any part of Kimmel that is considered to teach the specific limitations of claim 11, as required under 37 C.F.R. § 1.104 (c) 2.

Claim 15, as amended, requires in part

> a first tubular member comprising a hypotube having a proximal end and a distal end and having a fluid containing lumen therethrough;
>
> and
>
> a master actuating member configured for longitudinal movement within said hypotube proximate said proximal end.

As explained above regarding the patentability of claim 1, Kimmel fails to teach all the elements of claim 15, arranged as required by the claim. To reiterate, Kimmel does not teach, either expressly or inherently, that plunger 50 is configured for movement within catheter 22. Furthermore, Kimmel's syringe 48 cannot reasonably be construed as a hypotube under any definitions or common usage of the two terms. Therefore, claim 15 is patentable because Kimmel fails to teach all the elements of claim 15, arranged as required by the claim.

Claims 16, 17 and 19-23 depend directly or indirectly from claim 15 and are patentable for the same reasons explained above regarding claim 15. Furthermore, claims 16, 20, 21, 22 and 23 are patentable for the same reasons explained above regarding claims 2, 6, 7, 10 and 11 respectively. To reiterate, the rejection has failed to point out any part of Kimmel that is considered to teach the specific limitations of claims 16, 20, 21, 22 and 23, as required under 37 C.F.R. § 1.104 (c) 2.

Claim 24, as amended, requires in part

a first tubular member comprising a hypotube having a proximal end and a distal end and having a fluid containing lumen therethough;

and

a master actuating member telescopically mounted within said hypotube proximate said proximal end and configured for longitudinal movement therein.

As explained above regarding the patentability of claim 1, Kimmel fails to teach all the elements of claim 24, arranged as required by the claim. To reiterate, Kimmel does not teach, either expressly or inherently, that plunger 50 is configured for movement within catheter 22. Furthermore, Kimmel's syringe 48 cannot reasonably be construed as a hypotube under any definitions or common usage of the two terms. Therefore, claim 24 is patentable because Kimmel fails to teach all the elements of claim 24, arranged as required by the claim.

Claims 25 and 27-34 depend directly or indirectly from claim 24 and are patentable for the same reasons explained above regarding claim 24. Furthermore, claims 30 and 31 are patentable for the same reasons explained above regarding claims 9 and 10 respectively. To reiterate, the rejection has failed to point out any part of Kimmel that is considered to teach the specific limitations of claims 30 and 31, as required under 37 C.F.R. § 1.104 (c) 2. In consideration of the above remarks/arguments, applicants respectfully request that the rejection of claims 1-34 under 35 U.S.C. § 102(b) be withdrawn.

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. The Commissioner is hereby authorized to charge any additional fees which may be required under 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (978) 739-3075 (Eastern time).

Respectfully submitted,

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